



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 10, 1991

Mr. Murray Watson, Jr.
General Counsel
Texas State Technical Institute System
P. O. Box 1308
Waco, Texas 76703

OR91-493

Dear Mr. Watson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10292.

Texas State Technical Institute (hereinafter TSTI) received an open records request for certain information regarding an investigation at the TSTI Harlingen/McAllen extension. You sent for our inspection a report of that investigation. You raise several exceptions to the required public disclosure of the report.

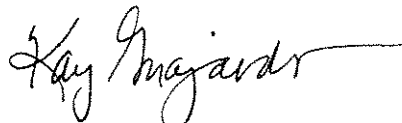
We may begin by disposing of your suggestion that some of the information in the report should be withheld under section 3(a)(1) on grounds of false light privacy. The common law regarding false light privacy is no longer applied in open records decisions. Open Records Decision No. 579 (1990).

You again raise section 3(a)(1) by saying it "protects the confidentiality of certain materials." Section 3(a)(1) excepts from disclosure "information deemed confidential by law, either statutory, Constitutional, or by judicial decision." You cite us no law, nor are we aware of any such law, which makes this information confidential. Therefore, we reject your section 3(a)(1) claim.

You raise section 3(a)(11), which protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency." This section protects advice, opinion, and recommendation used in the decisional process. Open Records Decision No. 470 (1987). The purpose of the exception is to protect from disclosure advise and opinion on policy matters and to encourage frank and open discussion within the agency about policy matters. *Austin v. City of San Antonio*, 630 S.W.2d 391 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.); Attorney General Opinion H-436 (1974); Open Records Decision No. 538 (1990). Facts and written observation of facts, where severable from advice, opinion, and recommendation, may not be withheld based on section 3(a)(11). Open Records Decision No. 213 (1978). We find that the bulk of the report consists of facts and written observations of fact. We have marked those portions of the report that may be withheld under section 3(a)(11).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-493.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/lcd

Ref.: ID# 10292

Enclosure: Open Records Decision Nos. 538, 579
Return Marked Documents